

# HART Adoption Agreement and Conditional Bill of Sale

"Hope After Racing Thoroughbreds"		"Adopter"	
<b>Hope After Racing Thoroughbreds (HART) Adoption Program not-for-profit corporation 1 Prairie Meadows Dr Altoona, IA 50009</b>		Name	
		Address	
		City, State and Zip	
		Phone	
		Fax	
		Email	
		Social Security #	
		Date of Birth	
"Adopted Horse"		"Boarding Facility"	
Registered Name		Name of Facility	
Barn Name		Contact Person	
Breed		Address	
Color		City, State and Zip	
Sex		Phone	
Birth Date		Fax	
Registration		Email	

HART and Adopter enter into this Adoption Agreement and Conditional Bill of Sale ("Agreement") and hereby agree as follows:

- a. Adopter shall pay HART a fee (the "Adoption Fee") in the amount of \_\_\_\_\_ (\$ \_\_\_\_\_ .00).
- b. Adopter acknowledges that the Adoption Fee is not the true value of the Adopted Horse, and that a part of the consideration of this transaction is Adopter's providing humane conditions for the Adopted Horse in accordance with the charitable purposes of HART and pursuant to the "Additional Terms and Conditions" that follow the signatures to this Agreement.
- c. In consideration of the Adoption Fee and Adopters agreement to abide by the conditions of this Agreement HART shall relinquish possession of the Adopted Horse to the Adopter and Adopter shall accept the care, custody and control of the Adopted Horse subject to the terms of this Agreement, which include a "Trial Period" of sixty (60) days as provided in Section 5; a "Probationary Period" as provided in Section 6; and a "Right of First Refusal" as provided in Section 7.
- d. Additional agreement provision(s) shall be hand written here if any: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

HART Adoption Program: Not-for-Profit

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

Adopter

By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Date: \_\_\_\_\_

*Additional Terms and Conditions:*

- 1) **Violation of Agreement:** If Adopter fails to comply with any term of this Agreement, Adopter agrees to pay HART an additional \$1,500.00 plus all attorneys' fees and all costs of legal action, including litigation that HART may incur to enforce the terms of this Agreement. Adopter acknowledges that the additional \$1,500.00 and costs are reasonable and just compensation to in the event of Adopter's breach of contract under the circumstances of this transaction and in view of HART's charitable purposes to provide for the humane care of horses. The compensation established is for a harm that is incapable or very difficult of accurate estimation at the time of the signing of this Agreement. In the event of Adopter's noncompliance with any term of this Agreement, the \$1,500.00 and costs shall be due regardless of whether HART exercises its option to repossess the Adopted Horse pursuant to Section 11, below.
- 2) **Liability and Risk of Loss:** Upon Adopter taking possession of the Adopted Horse, the Adopter shall assume the risk of loss and liability of the Adopted Horse and Adopter agrees to indemnify and release HART from any and all liability or claims associated with Adopter's possession of the Adopted Horse. Possession for this purpose shall be when the contract is signed or otherwise agreed to in section d above.
- 3) **Boarding Facility:** Adopter shall provide HART with a written memorandum (the "Facility Agreement") from the Boarding Facility and any subsequent facility in advance of moving the Adopted Horse to the facility with the following:
  - a) The name, contact person, address, phone number of the facility;
  - b) Acknowledgement that the facility is aware of this Agreement and its conditions including:
    - i) That any claim or lien that the facility may have by agreement or operation of law is subordinate to the rights and interests of HART including the right to repossess the Adopted Horse; and
    - ii) That the Adopter is able to provide the care and conditions for the Adopted Horse as required by this agreement. If Adopter fails to provide the Facility Agreement to Hart, Adopter agrees that any boarding facility having possession of the Adopted Horse shall accept a copy of this Agreement as evidence of the Adopter's express authority for HART to inspect and repossess the Adopted Horse.
- 4) **Transportation of Adopted Horse:** Adopter shall arrange and pay for the transportation of the Adopted Horse, to include transporting the Adopted Horse from its current location to the Boarding Facility, for the return of the Adopted Horse to HART (except as provided in Section (7)(c), and for any other transportation while the Adopted Horse is in Adopter's care, custody and control.
- 5) **Trial Period:** For a period of thirty (30) days following HART's signing of this Agreement ("Trial Period") if the Adopted Horse is unsuitable to the Adopter for any reason the Adopter may return the Adopted Horse to HART as follows:
  - a) Notice of the intent to return the Adopted Horse must be received in writing by HART within the Trial Period, email will be acceptable.
  - b) The Adopted Horse must be returned to HART within seven (7) days of HART notifying Adopter that a stall is open at a HART facility.
  - c) If Adopter elects to return the Adopted Horse, Adopter shall arrange and pay for transporting the horse to HART.
  - d) The Adopted Horse shall be returned in the condition it was received.
  - e) If registered in the name of the Adopter, Adopter shall provide the properly executed assignment documentation to HART at the time of the delivery of the Adopted Horse.
  - f) If Adopter complies with Sections 5(a) through (d). HART shall allow the exchange of the horse for another horse in the program.
- 6) **Probationary Period:** For a period of twelve (12) months following HART's signing of this Agreement (the "Probationary Period"), HART will retain an irrevocable and equitable ownership interest of the Adopted Horse, and the following shall apply:
  - a) HART shall retain adopted horses Jockey Club foal papers for the first 12 months or give to adopter sooner at HART's discretion.
  - b) HART may, at its sole discretion, conduct random and unannounced visits to inspect the Adopted Horse and its environment.
  - c) If HART in its sole discretion determines that Adopter is not in compliance with this Agreement, that the Adopted Horse is in an unsatisfactory condition or environment, or that the horse's care is not being paid for directly by the adopter but as a hardship on the facility at which the horse is boarded, HART shall have the right, but not the obligation, to
    - i) Terminate this Agreement;
    - ii) Terminate all interest and rights of possession that Adopter or its assignees may have in the Adopted Horse; and
    - iii) take possession of the Adopted Horse as provided in Section (6)(d), below.
  - d) If HART reclaims possession of the Adopted Horse as provided in Section (6)(c), above, or Section 11, below, the following shall apply:
    - i) No court order shall be required for HART to enter upon the facility in which the Adopted Horse is kept and to reclaim possession of the Adopted Horse;
    - ii) Adopter agrees to indemnify and release HART from any and all liability or claims associated with any expenses (including by way of illustration, board, veterinary fees, farrier charges, transportation fees) related to possession of the Adopted Horse up to the date that the Adopted Horse is returned to HART,
    - iii) Adopter further agrees to indemnify and release HART from any and all liability or claims associated with HART exercising its rights to reclaim the Adopted Horse.
    - iv) Adopter shall not be entitled to the return of the Adoption Fee.

- 7) **Right of First Refusal:** The Adopter understands that HART grants a CONDITIONAL BILL OF SALE, and all requirements and restrictions contained herein, including but not limited to HART regaining ownership, care and custody of the adopted horse, shall remain in effect regardless of change in ownership of possession of the adopted horse within the first twelve (12) months.
- a) The said horse may be returned to HART, if circumstances no longer enable Adopter to care for the horse, or if any of the requirements of the contract are not met. Ownership will transfer in total from Adopter to HART. This will include all paperwork, including registration papers on said horse being signed over to HART. This shall occur within the first twelve (12) months and may extend beyond the twelve (12) months of adoption at HART's discretion.
    - i) Adopter agrees that if ownership is terminated, that HART will take possession of said horse, and ownership will revert back to HART. If any disputes as to this arise, the proper jurisdiction will be Polk County, Iowa, and any dispute will be resolved by binding arbitration.
  - b) If within twelve (12) months of the execution of this Agreement the Adopter wishes to sell, lease, trade, or in any way change control of the Adopted Horse, HART shall be offered a right of first refusal and the following terms shall apply:
    - i) Adopter will notify HART in writing of:
      - (1) Adopter's intent; and
      - (2) provide HART with proof of a bona fide offer, including name, address and telephone number of prospective buyer.
      - (3) HART shall have the option to purchase the Adopted Horse back for the amount of the lesser of
        - (a) the Adoption Fee; or
        - (b) any bona fide offer.
    - ii) HART shall have thirty (30) days following receipt of notice to provide written notice to Adopter of its intent to exercise the option, or the option shall be presumed to be waived.
    - iii) HART shall provide and pay for the transportation of the Adopted Horse if HART exercises its options as provided herein.
  - c) An exception to the twelve (12) month ownership requirement may be made if the horse is adopted for and participates in the Retired Racehorse Project (RRP); approved applicants should notify HART of their acceptance into the RRP prior to adopting to gain a written addendum in section (d) of the Conditional Bill of Sale.
- 8) **Reporting and Inspections:**
- a) Adopter shall provide a written "Status Report" to HART in the third (3<sup>rd</sup>), sixth (6<sup>th</sup>), and twelfth (12<sup>th</sup>) months of the term of this Agreement, provided however, in the event of serious injury or death a Status Report shall be given to HART within seven (7) days of such event.
    - i) The Status Report shall contain the following:
      - (1) Current body shot photograph of the Adopted Horse.
      - (2) Narrative of the Adopted Horse's progress and condition.
      - (3) Current boarding facility information, including contact, facility name, address, phone, facsimile and email.
    - ii) In the event of death, a veterinary's statement as to the cause of death.
  - b) After the three mandatory Status Reports required by Section 8(a), above, are received additional Status Reports are not mandatory, but are highly encouraged. Adopters may provide additional updates through the HART Alumni group on social media or by emailing [IowaHart@gmail.com](mailto:IowaHart@gmail.com).
  - c) For the initial twelve (12) months following this agreement:
    - i) Adopter shall provide to HART [within seven (7) days of HART's request] copies of any veterinary records, reports or receipts for care to the Adopted Horse.
    - ii) Adopter shall give written notice at least fourteen (14) days in advance of moving the Adopted Horse.
    - iii) Adopter agrees and gives express permission to any HART staff or representatives to have the right to conduct random and unannounced visits to inspect the Adopted Horse as provided in Section 3, Adopter shall notify any facility of this Agreement and provide HART with the Facility Agreement. However, the failure to provide the Facility Agreement shall not impede HART's rights of inspection and repossession and Adopter agrees that any boarding facility having possession of the Adopted Horse shall accept a copy of this Agreement as evidence of the Adopter's express authority for HART to inspect and repossess the Adopted Horse. Time is of the essence for the Adopter to provide the reports and there is no grace period.
- 9) **Care of the Horse:** Adopter shall provide and pay for the proper training and care for the Adopted Horse including:
- a) Proper training, food, water, shelter and care in accordance with HART's standards. Adopter acknowledges that generally a retired racehorse needs 2 – 3% of its body weight in feed per day. That amounts to 20 - 30 lbs of hay and grain combined, for the average 1,000 lb horse. Depending on the hay quality most Thoroughbreds will require 8 -12 lbs of grain or concentrate feed per day.
  - b) Vaccinating and deworming the Adopted Horse under the guidance of the Adopter's veterinarian and within the recommendations of the AAEP. Adopters are encouraged to maintain a current Coggins in accordance with state laws and regulations.
  - c) Providing HART access to all veterinary care documents of the Adopted Horse upon HART request. Further, Adopter agrees that a copy of this Agreement is authorization for any veterinarian to release veterinary records and billing for care of the Adopted Horse to HART, and hereby authorizes and directs any veterinary to release information about the Adopted Horse to HART.
  - d) Providing proper hoof care, with trimming approximately every six (6) to eight (8) weeks.
  - e) Proper veterinary care upon illness or injury to the Adopted Horse.
- 10) **Prohibitions:**
- a) The Adopted Horse shall never be raced or sold in an auction under any circumstances.
    - i) ENTRY OF THE ADOPTED HORSE TO RACE SHALL VOID THIS SALE AND ANY SUBSEQUENT SALES, AND OWNERSHIP AND ALL RIGHTS OF POSSESSION SHALL IMMEDIATELY REVERT BACK TO HART.
    - ii) The Adopted Horse may be removed from any premises by HART, including from any racetrack, without court order.
    - iii) Adopter authorizes HART to present a copy of this Agreement or other notice of this Agreement to any Racing Secretary and the Racing Secretaries are authorized and directed to bar the Adopted Horse from entering any race.

**11) Repossession of Adopted Horse:**

- a) A material violation of this Agreement is grounds for HART to void this Agreement at HART's sole discretion, and upon that election ownership of the Adopted Horse shall immediately revert to HART, and the Adopted Horse may be removed from any premises by HART and the provisions of Section (6)(d) shall apply relative to such repossession.
- b) HART shall give notice of its intent to exercise the option to repossess the horse within six (6) months of the date that any report is due or inspection denied.
- c) It is agreed and understood by the Adopter that the following shall be deemed material violations of this Agreement, by way of illustration and not by limitation:
  - i) Failure to comply with Section 7, above, giving HART the appropriate notice and time to exercise its right of first refusal.
  - ii) Failure to comply with Section 8, above, providing required reports and permitting inspections.
  - iii) Failure to comply with Section 9, above, providing for the proper care of the Adopted Horse.
  - iv) Failure to comply with Section 10, above, auctioning or racing the Adopted Horse.
- d) The Adopter shall remain responsible for the damages referred to in Section 1, even if HART exercises its right to repossess the Adopted Horse.

**12) Condition and Temperament of the Adopted Horse:**

- a) The Adopter accepts the Adopted Horse in its current condition "as is" and in its current location "where is".
- b) HART makes no representation as to the Adopted Horse's behavior or temperament and does not warrant or guarantee the condition, soundness, temperament, or training of the Adopted Horse.
- c) The Adopter acknowledges that the Adopted Horse is likely a former racehorse and may have recently finished a racing career.
- d) The Adopter understands and acknowledges that being in the presence of horses and any and all activities involving horses are inherently dangerous.
- e) HART disclaims liability for any implied warranties, including implied warranties of "merchantability" and "fitness" for a specific purpose.

**13) Assumption of the Risk of Equine Activity:** The Adopter acknowledges that the Adopter has been notified and hereby assumes all risks inherent in equine activity, including, but not limited to, any of the following:

- a) The propensity of an equine to behave in ways that may result in injury, death, or loss to persons on or around the equine;
- b) The unpredictability of an equine's reaction to sounds, sudden movement, unfamiliar objects, persons, or other animals;
- c) Hazards, including, but not limited to, surface or subsurface conditions;
- d) A collision with another equine, another animal, a person, or an object;
- e) The potential of an equine activity participant to act in a negligent manner that may contribute to injury, death, or loss to the person of the participant or to other persons, including, but not limited to, failing to maintain control over an equine or failing to act within the ability of the participant.
- f) The provisions of this paragraph shall survive the termination of this agreement.

**14) Miscellaneous:**

- a) All terms, conditions and obligations described within this Adoption Agreement shall be interpreted and governed by Iowa law.
- b) If any dispute arises regarding the performance of this Agreement, the parties expressly agree that only those courts located within Polk County, Iowa will have jurisdiction to determine such disputes, and each party hereby consents to such jurisdiction.
- c) The parties hereto hereby waive any right to trial by jury in matters arising out of this Agreement. HART AND ADOPTER HEREBY SPECIFICALLY ACKNOWLEDGE THE AFORESAID WAIVER OF RIGHT TO JURY TRIAL.
- d) The individual signing on behalf of each of the parties hereby represents that said individual has the authority to sign on behalf of and bind the respective party.
- e) For purposes of this agreement, and except as otherwise set forth in this agreement, this agreement shall be binding upon, and inure to the benefit of, HART and the Adopter, and the parties' respective representatives, successors and permitted assigns. For purposes of this agreement, and except as otherwise set forth in this agreement, "HART" shall include, without limitation, the individual signing on behalf of HART and HART's employees, agents, representatives, owners, successors and permitted assigns.
- f) Adopter shall make all of its representatives, successors or assigns aware of the terms of this Agreement and shall agree to be bound by the terms of this Agreement. Adopter shall be responsible for any breach of this Agreement by any of its representatives, successors or assigns.
- g) This Agreement supersedes and replaces any prior agreements between HART and Adopter.
- h) This Agreement may only be modified by written instrument executed by both parties.
- i) This Agreement may not be assigned by Adopter without the prior written consent of the HART, which HART may withhold in its sole discretion.
- j) This Agreement contains the entire agreement of the parties and any prior or concurrent and written or oral understandings are deemed merged into this agreement. There are no promises, agreements, representations or warranties other than those contained herein or expressly incorporated by reference.
- k) No delay, failure or waiver of either party's exercise or partial exercise of any right or remedy under this Agreement shall operate to limit, impair, preclude, cancel, waive or otherwise affect such right or remedy. The remedies set forth in this Agreement are not exclusive. Election of one remedy shall not preclude the use of other remedies.
- l) If any provision of this Agreement is held invalid, illegal or unenforceable, the validity, legality or enforceability of the remaining provisions shall in no way be affected or impaired thereby.
- m) Adopter specifically acknowledges that this Agreement is A CONDITIONAL LIFETIME BILL OF SALE, and all requirements and restrictions contained herein, including but not limited to HART to regain ownership, care, custody and control of the Adopted Horse, shall remain in effect regardless of change of purported changes in ownership or possession of the Adopted Horse at a later date.
- n) Adopter agrees that this Agreement shall at all times remain attached to the Adopted Horse's registration papers when available or shall stand alone on its merits if such registration papers are not available.
- o) Signatures to this instrument in counterparts are acceptable.
- p) A copy, facsimile, scanned, or electronic signature or affirmation by email or other internet communication shall be binding and enforceable.